**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE J.B.KOSHY**
**&**
**THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN**

**FRIDAY, THE 1ST JUNE 2007 / 11TH JYAISHTA 1929**

**RCRev..No. 235 of 2006()**
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**RCA.198/2005 of D.C. & SESSIONS COURT,KOZHIKODE**
**RCP.126/2003 of ADDL.M.C.,KOZHIKODE-II**
**.....**

**PETITIONER/APPELLANT/RESPONDENT:**
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**P.BALACHANDRAN, S/O.P.BALAKRISHNAN,**
**AGED 59 YEARS, RESIDING AT 29/214 IN**
**PLOT NO. 24 OF NETHAJI NAGAR COLONY, IN**
**KOTTOOLI AMSOM AND DESOM, KOZHIKODE TALUK.**

**BY ADV. SRI.C.P.MOHAMMED NIAS**

**RESPONDENT/RESPONDENT/PETITIONER:**
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**A.SATHYAKUMAR, S/O.T.N.BALAKRISHNAN**
**THAMPAN, AGED 56 YEARS, AT NAISHADAM, BEYPORE**
**AMSOM AND DESOM, KOZHIKODE TALUK.**

**BY ADV. SRI.THOMAS ANTONY**

**THIS RENT CONTROL REVISION HAVING BEEN FINALLY HEARD ON 01/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:**

**J.B.KOSHY & K.P.BALACHANDRAN, JJ.**

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**R.C.R.NO.235 OF 2006 (G)**

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**Dated this the 1st day of June, 2007**

**O R D E R**

**KOSHY,J.**

The tenant who was ordered to be evicted under Section 11 (2) (b) and 11 (3) filed this revision petition against the concurrent findings of the Rent Control Appellate Authority. It is the contention of the land lord (respondent in the revision application) that tenant was holding the building under one Lakshmi Jayaraj. She was originally allotted the rights by the Kozhikode Bhavana Nirmana Sahakarana Sangam. Later by agreement between the parties Sangam allotted the building to him and a registered document was executed as Ext.A7 and Smt.Lakshmi has transferred the entire rights to the landlord and the tenant was continuing and paying a rent of Rs.500/- for sometime. He was keeping the building as a residential building. It was also stated that the there was huge arrears of rent. In fact he purchased the building for residential

purpose. Now he is residing in a small family house far away from the city, that house is not enough to accommodate him and his family members. He has no other residential house in the locality and because they are conducting a small business in Kozhikode city (proved by Exts.A13 to A15 profession tax receipt) he wants to live at Kozhikode itself. Only after completing one year of purchase of the building petition was filed to meet the statutory requirements. According to the revision petitioner he was not a tenant and he also further contented that the respondent is not the owner of the house. Earlier Lakshmi filed a suit (O.S.No.11/1998) for recovery of possession saying that she was a mortgagee. The main contention of the petitioner in this case was that he was a tenant under Lakshmi and not a mortgagee as evidenced by Ext.A18 written statement. That was accepted by the court below and suit filed by Lakshmi was dismissed as can be seen from Ext.A19 judgment. Thereafter Lakshmi who was allotted the property by the Sahakarana Sangam agreed to transfer the right to the landlord and accordingly Sangam allotted the property to the respondent who is the present landlord.

Considering the oral and documentary evidence, courts below concerned found that 2nd respondent was the owner of the house and landlord. It was also found that requirement of the landlord is bona fide. Merely because in the address given in Ext.A7 assignment deed there was a mistake, genuineness of the deed cannot be doubted. We see no ground to interfere in the concurrent findings of the authorities below in a revision application. It is submitted by the counsel for the petitioner that petitioner has no residential house and petitioner may be allowed at least for six months to reside in the house so that he can find out an alternative accommodation. In the above circumstances and after hearing the counsel for the respondents also, we are of the opinion that six months time can be allowed to the petitioner to vacate the house on the following conditions:-

1. Petitioner should pay all the arrears of rent as on today within three weeks.

2. File an affidavit within one month from today before executing court that he will hand over vacant possession of the building to the respondent landlord on or before 30.11.2007

and paid arrears of rent as directed earlier and he will continue to pay rent till he vacates the house.

If the affidavit is not filed before the court below after payment of rent as directed earlier within one month from today, 1st respondent will be free to execute the order of eviction. Accordingly this revision petition is dismissed subject to the above conditions.

**J.B.KOSHY, JUDGE**

**K.P.BALACHANDRAN, JUDGE**

prp

**J.B.KOSHY & K.P.BALACHANDRAN, JJ.**

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**M.F.A.NO. OF 2006 ()**

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**J U D G M E N T**

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**1st June, 2007**